

**Milton Town Council**  
**Mariner Middle School, 16391 Harbeson Road, Milton, DE**  
**Friday, July 31, 2009**  
**9:00 a.m.**

**THIS WILL BE THE CONTINUATION OF THE HEARING FOR CHIEF  
WILLIAM PHILLIPS WHICH STARTED ON FRIDAY, JULY 10, 2009.**

1. Call to Order – Mayor Post
2. Moment of Silence – Vice Mayor Betts
3. Pledge of Allegiance to the Flag
4. Roll Call – Mayor Post
5. Approval of Agenda
6. Public Hearing: The following grounds for possible termination for just cause will be presented and considered by the Milton Town Council during the public hearing. Chief Phillips and/or his attorneys shall be given an opportunity to be heard in the Chief's defense during the public hearing. The Milton Town Council shall thereafter render a decision on the issue of whether or not to terminate Chief's Phillips' employment. The public hearing fulfills the requirements of Delaware Code, Title 11, Section 9301, Police Chief Due Process.

Grounds for possible termination for just cause:

- (1) Violation of federal USERRA law, specifically 38 U.S.C. §§ 4303(2), 4311(a), 4312(f)(1) and 20 CFR Parts 1002.5J(b), 1002.18, 1002.19, 1002.22, as determined by the U.S. Department of Labor Veterans' Employment and Training Service ("DOL") after the DOL's independent investigation of a complaint received by the DOL about the Chief. As a result of the DOL's investigation and determination of discriminatory and retaliatory practices by the Chief, the Town of Milton is under a cease and desist order.
- (2) Violation of Delaware Council on Police Training ("COPT") recertification requirements for the calendar year 2008, resulting in the Chief's inability to enforce the laws of the State. Such failure also constitutes a violation of Policy #6-2, VI, A. of the Standard Operating Procedures for the Milton Police Department.
- (3) Destruction and removal of Town property and records on March 10, 2009, during the hours immediately preceding his meeting with Mayor Post at which time he was placed on administrative leave.
- (4) Carrying an unauthorized weapon, not issued by the Milton Police Department and upon which the Chief has not been certified by the firearms officer for the Milton Police Department, constituting a violation of COPT requirements and, without limitation, Policy #1-2, H; Policy 6-2, VII, A; and Policy #9-01, IV, H.1.04 of the Standard Operating Procedures for the Milton Police Department.
- (5) Failure to file a Use of Force report following the use of a taser during an incident with a prisoner in the Milton Police Department on January 10, 2008 (Complaint #75-08-000049), constituting a violation of Policy #6-1, VI, D. of the Standard Operating Procedures for the Milton Police Department.
- (6) Exercising poor management judgment in making Lt. Cornwell second in command for the Milton Police Department.
- (7) Failure to properly manage and oversee Lt. Cornwell, second in command for the Milton Police Department, resulting in improperly maintained temporary evidence lockers; an improperly maintained permanent evidence locker; improperly maintained evidence refrigerators; improperly maintained equipment and uniforms; improperly maintained training records; improperly

maintained COPT records; improperly maintained firearms records and an inadequate inventory tracking system.

- (8) Use of Town owned vehicles for personal business in violation of Policy #I-8 of the Town of Milton Employee Handbook and Policy #9-01, IV, I.1.01 of the Standard Operating Procedures for the Milton Police Department.
- (9) Failure to conduct performance evaluations of the members of the Milton Police Department as required by Policy #II-4 of the Town of Milton Employee Handbook (requiring annual evaluations) and Policy #4-05 of the Standard Operating Procedures for the Milton Police Department (requiring evaluations at least every 6 months).
- (10) Imposition of an employee complaint procedure in violation of Policy #II-6 of the Town of Milton Employee Handbook (allowing officers, under certain circumstances, to lodge complaints with the Town Manager and/or Personnel Committee for the Town of Milton) and the Delaware Whistleblowers' Protection Act.
- (11) Allowing his wife, Debbie Phillips, independent and at will access to areas of the Milton Police Department police station not open to non-employees of the Department via a key-code allowing her to access the building.
- (12) Violation of the "Policies and Objectives for the Operation of the Milton Police Department" dated November 29, 2004, signed by then Mayor Bushey for the Town Council and Chief Phillips.
- (13) Transporting a mentally ill patient/citizen from Beebe Hospital in Lewes, Delaware, to Wilmington, Delaware, with his wife, Debbie Phillips, in the police vehicle with him, constituting a violation, without limitation, of Policy #3-4 and Policy #9-01, IV, I.1.03 of the Standard Operating Procedures for the Milton Police Department.
- (14) Failure to comply with direct orders from Mayor Post on various occasions concerning, but not necessarily limited to, matters of scheduling officers, overtime, return of Town property, and performance evaluations.
- (15) Failure to implement a new evidence tracking system purchased at the Chief's direction in March, 2007 for a total cost to the Town of \$2,495.00.
- (16) Removal of video evidence related to the taser incident with a prisoner in the Milton Police Department on January 10, 2008 (Complaint #75-08-000049) and refusal to return said evidence despite an order from Mayor Post to do so.
- (17) Unauthorized alteration of officers' time sheets.

## 7. Adjournment

Pursuant to 29 Del.C. § 10004 (e) (2) Agenda items as listed may not be considered in sequence. This Agenda is subject to change to include additional items including Executive Sessions or the deletion of items including Executive Sessions, which arise at the time of the Meeting. Pursuant to 29 Del.C. § (e) (5) this Agenda was posted on July 24, 2009, at 11:00 a.m., at the time when the Agenda was prepared by the Town Clerk.

APPLICABLE STATUTE FOR PUBLIC HEARING: Delaware Code, Title 11, Crimes and Criminal Procedure Victims of Crimes, Chapter 93., Police Chief Due Process, § 9301., Police chief removal; right to public hearing; appeal. (a) No chief of police or police superintendent of a legislatively authorized police department within this State, excluding municipalities with a population greater than 60,000, shall be dismissed, demoted or otherwise removed from office unless there is a showing of just cause and such person has been given notice in writing of the specific grounds for such action and an opportunity to be heard in the chief's or the superintendent's own defense, personally and/or by counsel, at a public hearing before the elected governing body of the jurisdiction. Such public hearing, unless otherwise specified by charter, shall be held not less than 5 nor more than 30 days after such notice. (b) Any appeals from the process described in subsection (a) of this section shall be to the Superior Court for the county in which the public hearing was held. All such appeals shall be undertaken by filing a notice of appeal with the Court within 90 days of receipt of the written decision of the governing body.